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7 *Attorneys for Plaintiff Switch, Ltd.*

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 SWITCH, LTD., a Nevada corporation,

11 Plaintiff,

12 v.

13 UPTIME INSTITUTE, LLC, a Delaware
limited liability company; and UPTIME
INSTITUTE PROFESSIONAL SERVICES,
14 LLC, a Delaware limited liability company,

15 Defendants.

CASE NO.: 2:19-cv-00631-GMN-NJK

**STIPULATION AND ORDER TO
AMEND BRIEFING SCHEDULE ON
DEFENDANTS' PARTIAL MOTION
TO DISMISS FIRST AMENDED
COMPLAINT**

(First Request)

16 Pursuant to LR IA 6-1, Plaintiff Switch Ltd. ("Switch") and Defendants Uptime
17 Institute, LLC and Uptime Institute Professional Services, LLC (together, "Uptime") (and
18 with Switch, the "Parties), by and through their undersigned counsel of record, hereby
19 submit this Stipulation and Order to Amend Briefing Schedule On Defendants' Partial
20 Motion to Dismiss First Amended Complaint (the "Stipulation"). This Stipulation is
21 respectfully submitted with regard to the remaining briefing schedule on Uptime's Partial
22 Motion to Dismiss First Amended Complaint (the "Partial Motion to Dismiss"), which
23 Uptime filed on August 15, 2019 (ECF No. 19). This is the Parties' first request for an
24 extension of the briefing schedule regarding the Partial Motion to Dismiss.

25 In support of the Stipulation, the Parties report as follows:

26 1. Switch filed its initial Complaint (the "Initial Complaint") on April 11,
27 2019. (ECF No. 1).

1 2. On July 10, 2019 Uptime filed a Motion to Dismiss the Complaint (the
2 “Motion to Dismiss”) pursuant to Fed. R. Civ. P. 12, requesting that this Court dismiss
3 each of the claims alleged by Switch in the Initial Complaint on based on contentions of
4 lack of subject matter jurisdiction, failure to comply with the pleading requirements of
5 Fed. R. Civ. P. 9(b), lack of particularity, and lack of an “actual controversy” to support
6 declaratory relief. (ECF No. 14).

7 3. Without conceding the merits of the Motion to Dismiss, on July 31, 2019
8 Switch filed a First Amended Complaint (the “FAC”) pursuant to Fed. R. Civ. P.
9 15(a)(1)(B) (ECF No. 15).

10 4. In response to the FAC, Uptime filed its Partial Motion to Dismiss on
11 August 14, 2019. Switch’s deadline to file a response brief is presently set on August 28,
12 2019, and Uptime’s deadline to file a reply brief is seven (7) days from the date that Switch
13 files its responsive brief. *See* LR II 7-2(b).

14 5. By this Stipulation, Switch requests an extension of six (6) days to file a
15 response to the Partial Motion to Dismiss, with the revised deadline being September 3,
16 2019. Uptime consents to this request by Switch. However, with that extension, Uptime
17 would then effectively have fewer than the standard seven days for reply, due to
18 preexisting scheduling issues during the new reply period, including an intensive multi-
19 day meeting arranged months ago, involving more than twelve people convening from
20 various countries. Accordingly, Uptime has requested that, if the Court grants the request
21 by Switch for an extension, the Court should add two days to the standard seven-day
22 period for reply. Hence, the revised deadline for the reply brief would be September 12,
23 2019. Switch consents to this request by Uptime.

24 6. Pursuant to LR IA 6-1(a), Switch respectfully requests the extensions set
25 forth herein in order to accommodate scheduling conflicts of counsel involving previously
26 calendared vacations and unrelated litigation. Specifically, counsel for Switch is involved
27 in a complex arbitration matter for which considerable trade secret discovery is due prior

1 to August 28, 2019, in addition to a previously-scheduled personal trip outside of Nevada.
2 Uptime's counsel has graciously consented to accommodate these scheduling issues.

3 7. The Parties respectfully suggest that no undue prejudice or delay will occur
4 in these proceedings based on the requested extension to the briefing schedule on the
5 Partial Motion to Dismiss. In addition, the Parties continue to diligently work on
6 discovery-related issues including the preparation of Initial Disclosures pursuant to Fed.
7 R. Civ. P. 26(a), the preparation of a [Proposed] Joint Protective Order, and preparation
8 of an ESI-protocol.

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1 8. For the foregoing reasons, Switch respectfully requests that this Court
2 permit Switch to file a response brief to the Partial Motion to Dismiss on or before
3 September 3, 2019, and Uptime respectfully requests to file its reply brief in support of
4 the Partial Motion to Dismiss on or before September 12, 2019.

5 Dated this 26th day of August, 2019

Dated this 26th day of August, 2019.

6 **HOLLEY DRIGGS WALCH FINE**
7 **PUZEY STEIN & THOMPSON**

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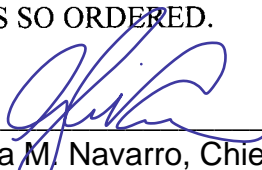
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16 *Attorneys for Defendants*

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18 IT IS SO ORDERED.

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21 Gloria M. Navarro, Chief Judge
UNITED STATES DISTRICT COURT

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23 Dated this 28 day of August, 2019.
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